

Notice of Allowability

Application No.

09/833,123

Examiner

Raquel Alvarez

Applicant(s)

PARKINSON, THOMAS L.

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/24/2004.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. This office action is in response to communication filed on 9/24/2004. Claims 1-20 are presented for examination.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

On claims 1 and 3, at the end of line 6 please add –with a computer server–

Authorization for this examiner's amendment was given in a telephone interview with Brian Sattizahn on April 6, 2005.

Allowable Subject Matter

3. Claims 1-20 are allowed.

The present invention comprises a system and method for monitoring demand of deliveries of the customer orders for a particular time period and to provide an incentive or a surcharge to a customer order based on the demand of delivery for the selected time period.

Aggarwal et al. (6,631,413) discloses a method for optimizing profits in electronic delivery of digital objects by selecting the most profitable channel of delivery and delivery time to deliver the digital objects.

Walker et al. (6,049,778) discloses a central controller 12 calculates a measurement of success associated with the new product, such as the number of units (products) sold or the market share of the new product. If the measurement of success is within a predetermined range, as determined by the central controller 12, a reward such as a refund or a free product is provided to a selected set of early-adopter purchasers of the product.

Motai et al. (GB 2 259 168 A) discloses production control of a product based on the order amount and the date of delivery.

Article titled "Push E-mail by Richard H. Levey teaches providing offers such as free shipping to coincide with slower business periods.

The references alone or in combination fail to teach **"monitoring demand for deliveries of customer orders in each time of the plurality of time periods; offering an incentive to the customers placing an order over the network and selecting the determined at least time period of a plurality of time periods; and withdrawing the offered incentive in response to receipt of a predetermined**

number of customer orders selecting the determined at least one time period exceeding a predetermined threshold". This patentable distinction is included in independent claims 1, and 4

The references alone or in combination fail to teach **"monitoring demand for deliveries of customer orders in each time of the plurality of time periods; imposing a surcharge to the customers placing an order over the network and selecting the determined at least time period of a plurality of time periods; and withdrawing the imposed surcharge in response to receipt of a predetermined number of customer orders selecting the determined at least one time period being less than a predetermined threshold"**. This patentable distinction is included in independent claims 3, and 6

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

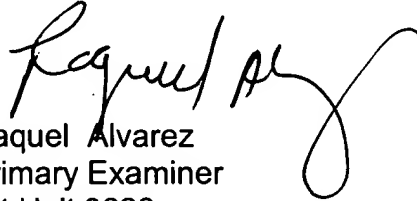
Point of contact

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (703)305-0456. The examiner can normally be reached on 9:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.
4/6/05